

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STEPHAN PAUL TORRES,

Plaintiff,

vs.

Civ. No. 02-1191 JP/LFG

GARY E. JOHNSON, Governor of New Mexico,
ROBERT J. PERRY, Secretary of Corrections,
JOHN SHANKS, Director of Adult Prisons,
JERRY TAFOYA, Deputy Corrections Secretary,
JEFF SERNA, Interstate Compact Coordinator,

and

WACKENHUT CORRECTIONS CORP.,
WAYNE CALABRESE, President of WCC,
ELOY MONDRAGON, LCCF, former Warden,
RALPH LUCERO, former Security Assoc. Warden,

and

RONALD ANGELONE, former Virginia Corrections Director,
STANLEY K. YOUNG, Wallens Ridge State Prison Warden,
OFFICERS MULLINS, COCHRANE, THOMPSON, and KISER,
Wallens Ridge Corrections Officers,

Defendants.

MEMORANDUM OPINION AND ORDER

On November 18, 2002, Defendants Governor Gary E. Johnson, Robert J. Perry, John Shanks, Jerry Tafoya, and Jeff Serna (State Defendants) filed a Motion to Dismiss No. I: Dismissal of All Federal Constitutional Claims on the Basis of Qualified Immunity and All State Constitutional and Statutory Claims (Doc. No. 5). The motion to dismiss seeks to dismiss all of the Plaintiff's claims against the State Defendants with prejudice. The motion to dismiss also requests that the Court award the State Defendants the attorney's fees and costs they incurred in

bringing the motion to dismiss. The Plaintiff, however, has not responded to the motion to dismiss as provided by D.N.M. LR-Cv 7.6(a). Consequently, under D.N.M. LR-Cv 7.1(b) the Plaintiff has consented to the granting of the motion to dismiss.

IT IS ORDERED that:

1. the State Defendants' Motion to Dismiss No. I: Dismissal of All Federal Constitutional Claims on the Basis of Qualified Immunity and All State Constitutional and Statutory Claims (Doc. No. 5) is granted;

2. all of the Plaintiff's claims against the State Defendants will be dismissed with prejudice by a separate order;

3. the State Defendants are entitled to an award of the attorney's fees and costs they incurred in bringing the motion to dismiss;

4. the State Defendants have until January 3, 2003 to file and serve an affidavit of their attorney itemizing the attorney's fees and costs incurred in bringing the motion to dismiss; and

5. the Plaintiff has until January 15, 2003 to file and serve a response to the State Defendants' itemization of attorney's fees and costs.



CHIEF UNITED STATES DISTRICT JUDGE